

THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

August 29, 1980

Major Lavell Merritt
President
Akenaton Oil Industry
2223 Westview Drive
Silver Spring, MD 20910

Dear Major Merritt:

This is in reply to your request for our legal views concerning the affirmative action responsibilities of foreign corporations doing business in the United States.

The Department of State is not directly involved in the interpretation or administration of federal or state statutes or regulations pertaining to affirmative action, except as they bear upon our Departmental operations. We accordingly are not able to provide you with an authoritative synopsis of the United States statutes and regulations which are potentially relevant to your concern.

We can confirm, however, that foreign firms which do business here, whether directly or through subsidiaries, are fully subject to the application of U.S. law with respect to their operations in the country. In particular, U.S. statutes and regulations relating to affirmative action would seem to apply to foreign firms or subsidiaries in this country precisely as they would apply to U.S. owned or incorporated firms.

There is one limited qualification to the foregoing statement. The United States has concluded bilateral treaties of Friendship, Commerce and Navigation with a number of other countries which provide that firms which are nationals of the other country may engage "accountants and other technical experts, executive personnel, attorneys, agents and other specialists of their choice." Such provisions are included in the U.S. treaties, with, inter alia, Japan and Denmark.

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <i>[Signature]</i>	DATE <i>9-30-82</i>
RDS ☐ or XDS ☐ EXT. DATE	
TS AUTH.	REASON(S)
ENDORSE EXISTING MARKINGS ☐	
DECLASSIFIED ☐ RELEASEABLE ☐	
RELEASE DENIED ☐	
PA or FOI EXEMPTIONS	

Such treaty provisions are part of the law of the land under the United States Constitution. Their application depends on the facts of particular cases, on the language of the particular treaty provisions involved, and on the underlying intentions of the negotiators. However, certain generalizations regarding these clauses are possible. In particular, it is our view that treaty provisions regarding employment such as those contained in the treaties with Denmark and Japan do not in any case apply to U.S. subsidiaries of Japanese firms.

I hope the foregoing is of assistance to you.

Sincerely,

William T. Lake
William T. Lake
Acting Legal Adviser